

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

In re:

MICHAEL LOUIS ALBANO

AND

LESLEY ANNE CHAPMAN

Debtor(s)

RICHARD V. FINK, STANDING
CHAPTER 13 TRUSTEE,

Plaintiff

vs.

CARVANA LLC
1930 W. RIO SALADO PKWY
TEMPE, AZ 85281

CARVANA LLC
PO BOX 29018
PHOENIX, AZ 85038

CARVANA LLC
PO BOX 29002
PHOENIX, AZ 85038

CARVANA LLC
c/o CSC-LAWYERS INCORPORATING
SERVICE COMPANY
221 BOLIVAR ST.
JEFFERSON CITY, MO 65101

Defendant(s).

BANKRUPTCY CASE
NO. 20-41865-drd-13

ADVERSARY CASE NO.

COMPLAINT TO AVOID AN UNPERFECTED INTEREST IN PERSONAL PROPERTY

COMES NOW, Plaintiff, Richard V. Fink, the Standing Chapter 13 Trustee for the Western District of Missouri (“Plaintiff”) by and through his counsel, and for his Complaint to Avoid an Unperfected Interest in Personal Property against Carvana LLC (“Defendant”) states as follows:

- 1) Richard V. Fink is the duly qualified and acting trustee in the above referenced case.

- 2) This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§1334 and 157.
- 3) This is a statutorily and constitutionally core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue properly lies in this judicial district pursuant to 28 U.S.C. §1409(a), in that the instant adversary proceeding is related to the above-captioned case under title 11 of the United States which is still pending.
- 4) Plaintiff brings this proceeding to avoid an unperfected interest in personal property pursuant to 11 U.S.C. §544.
- 5) On October 28, 2020, Michael Louis Albano and Lesley Anne Chapman (“Debtors”) filed for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.
- 6) Debtors are individuals who reside at 8081 N. Denver Avenue #501, Kansas City, Missouri.
- 7) Defendant is the entity that financed Debtor Lesley Anne Chapman’s purchase of a 2019 Nissan Altima.
- 8) Defendant filed claim 21 on December 29, 2020 in the amount of \$20,389.25. The claim is listed as secured by a 2019 Nissan Altima with VIN 1N4BL4CV3KC180628. Pursuant to the proof of claim, the noticing address is Carvana, LLC PO Box 29018, Phoenix, AZ 86038.
- 9) On or around October 23, 2020, Debtor Lesley Anne Chapman purchased a 2019 Nissan Altima with VIN 1N4BL4CV3KC180628 (“Vehicle”).
- 10) According to information obtained from the Missouri Department of Revenue, no title has been issued regarding the Vehicle.
- 11) According to information obtained from the Missouri Department of Revenue, Defendant has not filed a Notice of Lien regarding the Vehicle.
- 12) As of the petition filing date of October 28, 2020, Defendant’s security interest in the Vehicle was not perfected and remains unperfected.
- 13) As Defendant’s security interest was not perfected as of the petition date in accordance with applicable law and remains unperfected, it is not enforceable against third parties, including the Trustee, pursuant to 11 U.S.C. §544.
- 14) The Trustee may avoid the unperfected security interest held by Defendant.

WHEREFORE Plaintiff prays for judgment as follows:

- 1) An order avoiding the aforesaid unperfected security interest; and
- 2) An order allowing the trustee to treat Defendant’s claim 21 as a non-priority unsecured claim; and

- 3) An order preserving the property for the benefit of the bankruptcy estate as provided in 11 U.S.C. §550 and/or §551.
- 4) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Dana M. Estes

Dana M. Estes, #47540

Office of the Chapter 13 Trustee for the
Western District of Missouri

Richard V. Fink, Trustee

2345 Grand Blvd., Ste. 1200

Kansas City, Mo. 64108-2663

Dated: January 11, 2021